

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against: )

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)

)

Brandon Michael Ross, M.D. )

Case No. 10-2012-221360

)

Physician's and Surgeon's )

Certificate No. A 76782 )

)

Respondent )

)

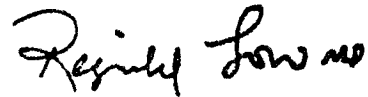
**DECISION**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on November 2, 2012.

IT IS SO ORDERED: October 3, 2012.

MEDICAL BOARD OF CALIFORNIA



By: \_\_\_\_\_

Reginald Low, M.D., Chair  
Panel B

1 KAMALA D. HARRIS  
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9 **BEFORE THE**  
**MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **BRANDON MICHAEL ROSS, M.D.**  
4150 Regents Park Row Ste 245  
14 La Jolla, CA 92037

15 Physician's and Surgeon's Certificate No.  
A76782

16 Respondent.  
17

Case No. 10-2012-221360

OAH No. 2012070488

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Linda K. Whitney (Complainant) is the Executive Director of the Medical Board of  
22 California. She brought this action solely in her official capacity and is represented in this matter  
23 by Kamala D. Harris, Attorney General of the State of California, by Alexandra M. Alvarez,  
24 Deputy Attorney General.

25 2. Respondent Brandon M. Ross, M.D. (Respondent) is represented in this proceeding  
26 by attorney Gerald Blank, Esq., whose address is 444 West C Street, Suite 200, San Diego,  
27 California 92101.

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1           3.     On or about October 12, 2001, the Medical Board of California issued Physician's  
2 and Surgeon's Certificate No. A76782 to Brandon M. Ross, M.D. (Respondent). The Physician's  
3 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
4 in Accusation No. 10-2012-221360 and will expire on August 31, 2013, unless renewed.

5           4.     On or about June 7, 2012, *an ex parte* Interim Order of Suspension was issued  
6 immediately suspending Physician's and Surgeon's Certificate No. A76782 and prohibiting  
7 respondent from practicing medicine in the State of California pending a noticed hearing. On or  
8 about June 18, 2012, a noticed hearing on the Interim Order of Suspension was conducted, and  
9 the Interim Order of Suspension was affirmed. As a result, respondent remains suspended from  
10 the practice of medicine as of the date of the execution by the parties of this Stipulated Settlement  
11 and Disciplinary Order filing of this Accusation.

#### 12                                   **JURISDICTION**

13           5.     On July 3, 2012, Accusation No. 10-2012-221360 was filed before the Medical Board  
14 of California (Board), Department of Consumer Affairs, and is currently pending against  
15 Respondent. A true and correct copy of the Accusation and all other statutorily required  
16 documents were properly served on Respondent on July 3, 2012. Respondent timely filed his  
17 Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. 10-  
18 2012-221360 is attached hereto as Exhibit A and incorporated herein by reference.

#### 19                                   **ADVISEMENT AND WAIVERS**

20           6.     Respondent has carefully read, fully discussed with counsel, and understands the  
21 charges and allegations in Accusation No. 10-2012-221360. Respondent has also carefully read,  
22 fully discussed with counsel, and understands the effects of this Stipulated Settlement and  
23 Disciplinary Order.

24           7.     Respondent is fully aware of his legal rights in this matter, including the right to a  
25 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine  
26 the witnesses against him; the right to present evidence and to testify on his own behalf; the right  
27 to the issuance of subpoenas to compel the attendance of witnesses and the production of

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documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Having the benefit of counsel, Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

### **CULPABILITY**

9. Respondent does not contest that, at an administrative hearing, complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation No. 10-2012-221360 and that he has thereby subjected his Physician's and Surgeon's Certificate No. A76782 to disciplinary action.

10. Respondent agrees that if he ever petitions for early termination or modification of probation, or if an accusation and/or petition to revoke probation is filed against him before the Medical Board of California, all of the charges and allegations contained in Accusation No. 10-2012-221360 shall be deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any other licensing proceeding involving respondent in the State of California.

11. Respondent agrees that his Physician's and Surgeon's Certificate No. A76782 is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

### **CONTINGENCY**

12. The parties agree that this Stipulated Settlement and Disciplinary Order shall be submitted to the Board for its consideration in the above-entitled matter and, further, that the Board shall have a reasonable period of time in which to consider and act on this Stipulated Settlement and Disciplinary Order after receiving it.

13. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and Disciplinary Order, the Board may receive oral and written communications from its staff and/or the Attorney General's office. Communications pursuant to this paragraph shall not disqualify

1 the Board, any member thereof, and/or any other person from future participation in this or any  
2 other matter affecting or involving respondent. In the event that the Board, in its discretion, does  
3 not approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of  
4 this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and  
5 shall not be relied upon or introduced in any disciplinary action by either party hereto.  
6 Respondent further agrees that should the Board reject this Stipulated Settlement and Disciplinary  
7 Order for any reason, respondent will assert no claim that the Board, or any member thereof, was  
8 prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and  
9 Disciplinary Order or of any matter or matters related hereto.

#### 10 **ADDITIONAL PROVISIONS**

11 14. The parties understand and agree that facsimile copies of this Stipulated Settlement  
12 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and  
13 effect as the originals.

14 15. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to  
15 be an integrated writing representing the complete, final and exclusive embodiment of the  
16 agreements of the parties in the above-entitled matter.

17 16. In consideration of the foregoing admissions and stipulations, the parties agree that  
18 the Board may, without further notice or formal proceeding, issue and enter the following  
19 Disciplinary Order:

#### 20 **DISCIPLINARY ORDER**

21 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A76782 issued  
22 to Respondent Brandon M. Ross, M.D. (Respondent) is revoked. However, the revocation is  
23 stayed and Respondent is placed on probation for ten (10) years from the effective date of this  
24 Decision on the following terms and conditions.

25 1. ACTUAL SUSPENSION. As part of probation, Respondent is suspended from the  
26 practice of medicine for 120 days beginning June 7, 2012.

27 2. CONTROLLED SUBSTANCES - TOTAL RESTRICTION. Respondent shall not  
28 order, prescribe, dispense, administer, furnish, or possess any controlled substances as defined in

1 the California Uniform Controlled Substances Act.

2 Respondent shall not issue an oral or written recommendation or approval to a patient or a  
3 patient's primary caregiver for the possession or cultivation of marijuana for the personal medical  
4 purposes of the patient within the meaning of Health and Safety Code section 11362.5.

5 If Respondent forms the medical opinion, after an appropriate prior examination and a  
6 medical indication, that a patient's medical condition may benefit from the use of marijuana,  
7 Respondent shall so inform the patient and shall refer the patient to another physician who,  
8 following an appropriate prior examination and a medical indication, may independently issue a  
9 medically appropriate recommendation or approval for the possession or cultivation of marijuana  
10 for the personal medical purposes of the patient within the meaning of Health and Safety Code  
11 section 11362.5. In addition, Respondent shall inform the patient or the patient's primary  
12 caregiver that Respondent is prohibited from issuing a recommendation or approval for the  
13 possession or cultivation of marijuana for the personal medical purposes of the patient and that  
14 the patient or the patient's primary caregiver may not rely on Respondent's statements to legally  
15 possess or cultivate marijuana for the personal medical purposes of the patient. Respondent shall  
16 fully document in the patient's chart that the patient or the patient's primary caregiver was so  
17 informed. Nothing in this condition prohibits Respondent from providing the patient or the  
18 patient's primary caregiver information about the possible medical benefits resulting from the use  
19 of marijuana.

20 3. CONTROLLED SUBSTANCES - SURRENDER OF DEA PERMIT. Respondent is  
21 prohibited from practicing medicine until Respondent provides documentary proof to the Board  
22 or its designee that Respondent's DEA permit has been surrendered to the Drug Enforcement  
23 Administration for cancellation, together with any state prescription forms and all controlled  
24 substances order forms. Thereafter, Respondent shall not reapply for a new DEA permit without  
25 the prior written consent of the Board or its designee.

26 4. CONTROLLED SUBSTANCES - ABSTAIN FROM USE. Respondent shall abstain  
27 completely from the personal use or possession of controlled substances as defined in the  
28 California Uniform Controlled Substances Act, dangerous drugs as defined by Business and

1 Professions Code section 4022, and any drugs requiring a prescription. This prohibition does not  
2 apply to medications lawfully prescribed to Respondent by another practitioner for a bona fide  
3 illness or condition.

4 Within 15 calendar days of receiving any lawfully prescribed medications, Respondent  
5 shall notify the Board or its designee of the: issuing practitioner's name, address, and telephone  
6 number; medication name, strength, and quantity; and issuing pharmacy name, address, and  
7 telephone number.

8 If Respondent has a confirmed positive biological fluid test for any substance (whether or  
9 not legally prescribed) and has not reported the use to the Board or its designee, Respondent  
10 shall receive a notification from the Board or its designee to immediately cease the practice of  
11 medicine. The Respondent shall not resume the practice of medicine until final decision on an  
12 accusation and/or a petition to revoke probation. An accusation and/or petition to revoke  
13 probation shall be filed by the Board within 15 days of the notification to cease practice. If the  
14 Respondent requests a hearing on the accusation and/or petition to revoke probation, the Board  
15 shall provide the Respondent with a hearing within 30 days of the request, unless the Respondent  
16 stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or  
17 the Board within 15 days unless good cause can be shown for the delay. The cessation of practice  
18 shall not apply to the reduction of the probationary time period.

19 If the Board does not file an accusation or petition to revoke probation within 15 days of the  
20 issuance of the notification to cease practice or does not provide Respondent with a hearing  
21 within 30 days of such request, the notification of cease practice shall be dissolved.

22 5. ALCOHOL - ABSTAIN FROM USE. Respondent shall abstain completely from the  
23 use of products or beverages containing alcohol.

24 If Respondent has a confirmed positive biological fluid test for alcohol, Respondent shall  
25 receive a notification from the Board or its designee to immediately cease the practice of  
26 medicine. The Respondent shall not resume the practice of medicine until final decision on an  
27 accusation and/or a petition to revoke probation. An accusation and/or petition to revoke  
28 probation shall be filed by the Board within 15 days of the notification to cease practice. If the

1 Respondent requests a hearing on the accusation and/or petition to revoke probation, the Board  
2 shall provide the Respondent with a hearing within 30 days of the request, unless the Respondent  
3 stipulates to a later hearing. A decision shall be received from the Administrative Law Judge or  
4 the Board within 15 days unless good cause can be shown for the delay. The cessation of practice  
5 shall not apply to the reduction of the probationary time period.

6 If the Board does not file an accusation or petition to revoke probation within 15 days of the  
7 issuance of the notification to cease practice or does not provide Respondent with a hearing  
8 within 30 days of such request, the notification of cease practice shall be dissolved.

9 6. BIOLOGICAL FLUID TESTING. Respondent shall immediately submit to  
10 biological fluid testing, at Respondent's expense, upon request of the Board or its designee.  
11 "Biological fluid testing" may include, but is not limited to, urine, blood, breathalyzer, hair  
12 follicle testing, or similar drug screening approved by the Board or its designee. Prior to  
13 practicing medicine, Respondent shall contract with a laboratory or service approved in advance  
14 by the Board or its designee that will conduct random, unannounced, observed, biological fluid  
15 testing. The contract shall require results of the tests to be transmitted by the laboratory or  
16 service directly to the Board or its designee within four hours of the results becoming available.  
17 Respondent shall maintain this laboratory or service contract during the period of probation.

18 A certified copy of any laboratory test result may be received in evidence in any  
19 proceedings between the Board and Respondent.

20 If Respondent fails to cooperate in a random biological fluid testing program within the  
21 specified time frame, Respondent shall receive a notification from the Board or its designee to  
22 immediately cease the practice of medicine. The Respondent shall not resume the practice of  
23 medicine until final decision on an accusation and/or a petition to revoke probation. An  
24 accusation and/or petition to revoke probation shall be filed by the Board within 15 days of the  
25 notification to cease practice. If the Respondent requests a hearing on the accusation and/or  
26 petition to revoke probation, the Board shall provide the Respondent with a hearing within 30  
27 days of the request, unless the Respondent stipulates to a later hearing. A decision shall be  
28 received from the Administrative Law Judge or the Board within 15 days unless good cause can



1 be shown for the delay. The cessation of practice shall not apply to the reduction of the  
2 probationary time period.

3 If the Board does not file an accusation or petition to revoke probation within 15 days of the  
4 issuance of the notification to cease practice or does not provide Respondent with a hearing  
5 within 30 days of such request, the notification of cease practice shall be dissolved.

6 7. EDUCATION COURSE. Within one year of the effective date of this Decision, and  
7 on an annual basis thereafter, respondent shall submit to the Board or its designee for its prior  
8 approval educational program(s) or course(s) which shall not be less than 40 hours per year, for  
9 each year, beginning with the second year, of his probation. The educational program(s) or  
10 course(s) shall be aimed at correcting any areas of deficient practice or knowledge and shall be  
11 Category I certified. The educational program(s) or course(s) shall be at Respondent's expense  
12 and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of  
13 licensure. Following the completion of each course, the Board or its designee may administer an  
14 examination to test Respondent's knowledge of the course. Respondent shall provide proof of  
15 attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

16 8. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective  
17 date of this Decision, Respondent shall enroll in a course in prescribing practices equivalent to the  
18 Prescribing Practices Course at the Physician Assessment and Clinical Education Program,  
19 University of California, San Diego School of Medicine (Program), approved in advance by the  
20 Board or its designee. Respondent shall provide the program with any information and documents  
21 that the Program may deem pertinent. Respondent shall participate in and successfully complete  
22 the classroom component of the course not later than six (6) months after Respondent's initial  
23 enrollment. Respondent shall successfully complete any other component of the course within  
24 one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense  
25 and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of  
26 licensure.

27 A prescribing practices course taken after the acts that gave rise to the charges in the  
28 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board

1 or its designee, be accepted towards the fulfillment of this condition if the course would have  
2 been approved by the Board or its designee had the course been taken after the effective date of  
3 this Decision.

4 Respondent shall submit a certification of successful completion to the Board or its  
5 designee not later than 15 calendar days after successfully completing the course, or not later than  
6 15 calendar days after the effective date of the Decision, whichever is later.

7 9. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective  
8 date of this Decision, Respondent shall enroll in a course in medical record keeping equivalent to  
9 the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education  
10 Program, University of California, San Diego School of Medicine (Program), approved in  
11 advance by the Board or its designee. Respondent shall provide the program with any information  
12 and documents that the Program may deem pertinent. Respondent shall participate in and  
13 successfully complete the classroom component of the course not later than six (6) months after  
14 Respondent's initial enrollment. Respondent shall successfully complete any other component of  
15 the course within one (1) year of enrollment. The medical record keeping course shall be at  
16 Respondent's expense and shall be in addition to the Continuing Medical Education (CME)  
17 requirements for renewal of licensure.

18 A medical record keeping course taken after the acts that gave rise to the charges in the  
19 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
20 or its designee, be accepted towards the fulfillment of this condition if the course would have  
21 been approved by the Board or its designee had the course been taken after the effective date of  
22 this Decision.

23 Respondent shall submit a certification of successful completion to the Board or its  
24 designee not later than 15 calendar days after successfully completing the course, or not later than  
25 15 calendar days after the effective date of the Decision, whichever is later.

26 10. PROFESSIONALISM PROGRAM (ETHICS COURSE) Within 60 calendar days of  
27 the effective date of this Decision, Respondent shall enroll in a professionalism program, that  
28 meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.

1 Respondent shall participate in and successfully complete that program. Respondent shall  
2 provide any information and documents that the program may deem pertinent. Respondent shall  
3 successfully complete the classroom component of the program not later than six (6) months after  
4 Respondent's initial enrollment, and the longitudinal component of the program not later than the  
5 time specified by the program, but no later than one (1) year after attending the classroom  
6 component. The professionalism program shall be at Respondent's expense and shall be in  
7 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

8 A professionalism program taken after the acts that gave rise to the charges in the  
9 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board  
10 or its designee, be accepted towards the fulfillment of this condition if the program would have  
11 been approved by the Board or its designee had the program been taken after the effective date of  
12 this Decision.

13 Respondent shall submit a certification of successful completion to the Board or its  
14 designee not later than 15 calendar days after successfully completing the program or not later  
15 than 15 calendar days after the effective date of the Decision, whichever is later.

16 11. PSYCHOTHERAPY. Within 60 calendar days of the effective date of this Decision,  
17 Respondent shall submit to the Board or its designee for prior approval the name and  
18 qualifications of a California-licensed board certified psychiatrist or a licensed psychologist who  
19 has a doctoral degree in psychology and at least five years of postgraduate experience in the  
20 diagnosis and treatment of emotional and mental disorders. Upon approval, Respondent shall  
21 undergo and continue psychotherapy treatment, including any modifications to the frequency of  
22 psychotherapy, until the Board or its designee deems that no further psychotherapy is necessary.

23 The psychotherapist shall consider any information provided by the Board or its designee  
24 and any other information the psychotherapist deems relevant and shall furnish a written  
25 evaluation report to the Board or its designee. Respondent shall cooperate in providing the  
26 psychotherapist any information and documents that the psychotherapist may deem pertinent.

27 Respondent shall have the treating psychotherapist submit quarterly status reports to the  
28 Board or its designee. The Board or its designee may require Respondent to undergo psychiatric

1 evaluations by a Board-appointed board certified psychiatrist. If, prior to the completion of  
2 probation, Respondent is found to be mentally unfit to resume the practice of medicine without  
3 restrictions, the Board shall retain continuing jurisdiction over Respondent's license and the  
4 period of probation shall be extended until the Board determines that Respondent is mentally fit  
5 to resume the practice of medicine without restrictions.

6 Respondent shall pay the cost of all psychotherapy and psychiatric evaluations.

7 12. MONITORING - PRACTICE Within 30 calendar days of the effective date of this  
8 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice  
9 monitor, the name and qualifications of one or more licensed physicians and surgeons whose  
10 licenses are valid and in good standing, and who are preferably American Board of Medical  
11 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal  
12 relationship with Respondent, or other relationship that could reasonably be expected to  
13 compromise the ability of the monitor to render fair and unbiased reports to the Board, including  
14 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree  
15 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

16 The Board or its designee shall provide the approved monitor with copies of the Decision  
17 and Accusation, and a proposed monitoring plan. Within 15 calendar days of receipt of the  
18 Decision, Accusation, and proposed monitoring plan, the monitor shall submit a signed statement  
19 that the monitor has read the Decision and Accusation, fully understands the role of a monitor,  
20 and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the  
21 proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed  
22 statement for approval by the Board or its designee.

23 Within 60 calendar days of the effective date of this Decision, and continuing throughout  
24 probation, Respondent's practice monitor shall be monitored by the approved monitor.  
25 Respondent shall make all records available for immediate inspection and copying on the  
26 premises by the monitor at all times during business hours and shall retain the records for the  
27 entire term of probation.

28 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective

1 date of this Decision, Respondent shall receive a notification from the Board or its designee to  
2 cease the practice of medicine within three (3) calendar days after being so notified. Respondent  
3 shall cease the practice of medicine until a monitor is approved to provide monitoring  
4 responsibility.

5 The monitor shall submit a quarterly written report to the Board or its designee which  
6 includes an evaluation of Respondent's performance, indicating whether Respondent's practices  
7 are within the standards of practice of medicine, and whether Respondent is practicing medicine  
8 safely. It shall be the sole responsibility of Respondent to ensure that the monitor submits the  
9 quarterly written reports to the Board or its designee within 10 calendar days after the end of the  
10 preceding quarter.

11 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of  
12 such resignation or unavailability, submit to the Board or its designee, for prior approval, the  
13 name and qualifications of a replacement monitor who will be assuming that responsibility within  
14 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60  
15 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a  
16 notification from the Board or its designee to cease the practice of medicine within three (3)  
17 calendar days after being so notified Respondent shall cease the practice of medicine until a  
18 replacement monitor is approved and assumes monitoring responsibility.

19 In addition to the foregoing, Respondent shall also participate in a professional  
20 enhancement program equivalent to the one offered by the Physician Assessment and Clinical  
21 Education Program at the University of California, San Diego School of Medicine, that includes,  
22 at minimum, quarterly chart review, semi-annual practice assessment, and semi-annual review of  
23 professional growth and education. Respondent shall participate in the professional enhancement  
24 program at Respondent's expense during the term of probation.

25 13. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the  
26 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the  
27 Chief Executive Officer at every hospital where privileges or membership are extended to  
28 Respondent, at any other facility where Respondent engages in the practice of medicine,

1 including all physician and locum tenens registries or other similar agencies, and to the Chief  
2 Executive Officer at every insurance carrier which extends malpractice insurance coverage to  
3 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15  
4 calendar days.

5 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

6 14. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is  
7 prohibited from supervising physician assistants.

8 15. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules  
9 governing the practice of medicine in California and remain in full compliance with any court  
10 ordered criminal probation, payments, and other orders.

11 16. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations  
12 under penalty of perjury on forms provided by the Board, stating whether there has been  
13 compliance with all the conditions of probation.

14 Respondent shall submit quarterly declarations not later than 10 calendar days after the end  
15 of the preceding quarter.

16 17. GENERAL PROBATION REQUIREMENTS.

17 Compliance with Probation Unit

18 Respondent shall comply with the Board's probation unit and all terms and conditions of  
19 this Decision.

20 Address Changes

21 Respondent shall, at all times, keep the Board informed of Respondent's business and  
22 residence addresses, email address (if available), and telephone number. Changes of such  
23 addresses shall be immediately communicated in writing to the Board or its designee. Under no  
24 circumstances shall a post office box serve as an address of record, except as allowed by Business  
25 and Professions Code section 2021(b).

26 Place of Practice

27 Respondent shall not engage in the practice of medicine in Respondent's or patient's place  
28 of residence, unless the patient resides in a skilled nursing facility or other similar licensed

1 facility.

2 License Renewal

3 Respondent shall maintain a current and renewed California physician's and surgeon's  
4 license.

5 Travel or Residence Outside California

6 Respondent shall immediately inform the Board or its designee, in writing, of travel to any  
7 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty  
8 (30) calendar days.

9 In the event Respondent should leave the State of California to reside or to practice  
10 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of  
11 departure and return.

12 18. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be  
13 available in person upon request for interviews either at Respondent's place of business or at the  
14 probation unit office, with or without prior notice throughout the term of probation.

15 19. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or  
16 its designee in writing within 15 calendar days of any periods of non-practice lasting more than  
17 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is  
18 defined as any period of time Respondent is not practicing medicine in California as defined in  
19 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month  
20 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All  
21 time spent in an intensive training program which has been approved by the Board or its designee  
22 shall not be considered non-practice. Practicing medicine in another state of the United States or  
23 Federal jurisdiction while on probation with the medical licensing authority of that state or  
24 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall  
25 not be considered as a period of non-practice.

26 In the event Respondent's period of non-practice while on probation exceeds 18 calendar  
27 months, Respondent shall successfully complete a clinical training program that meets the criteria  
28 of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and

Disciplinary Guidelines” prior to resuming the practice of medicine.

Respondent’s period of non-practice while on probation shall not exceed two (2) years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; and General Probation Requirements.

20. COMPLETION OF PROBATION. Respondent shall comply with all financial obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the completion of probation. Upon successful completion of probation, Respondent’s certificate shall be fully restored.

21. VIOLATION OF PROBATION. Failure to fully comply with any term or condition of probation is a violation of probation. If Respondent violates probation in any respect, the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation, or an Interim Suspension Order is filed against Respondent during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

22. LICENSE SURRENDER. Following the effective date of this Decision, if Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license. The Board reserves the right to evaluate Respondent’s request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent’s wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

///



## ACCEPTANCE

DATED:

7/31/12

I approve its form and content.

DATED:

7/3/12

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Dated: 8/1/12

KAMALA D. HARRIS  
Attorney General of California  
THOMAS S. LAZAR  
Supervising Deputy Attorney General

SD2012703709

**Exhibit A**

**Accusation No. 10-2012-221360**

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*Attorneys for Complainant*

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO JUL 13, 2012  
BY *[Signature]* ANALYST

9 BEFORE THE  
10 MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
11 STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 10-2012-221360

13 **Brandon Ross, M.D.**  
4150 Regents Park Row, Ste 245  
14 La Jolla, CA 92037

OAH No.

**A C C U S A T I O N**

15 Physician's and Surgeon's Certificate No.  
A76782

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Linda K. Whitney (Complainant) brings this Accusation solely in her official  
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer  
22 Affairs.

23 2. On or about October 12, 2001, the Medical Board of California issued  
24 Physician's and Surgeon's Certificate No. A 76782 to Brandon Ross (Respondent). The  
25 Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the  
26 charges brought herein and will expire on August 31, 2013, unless renewed.

27 3. On or about June 7, 2012, an *ex parte* Interim Order of Suspension was issued  
28 immediately suspending Physician's and Surgeon's Certificate No. A 76782 and prohibiting

1 respondent from practicing medicine in the State of California pending a noticed hearing. On or  
2 about June 18, 2012, a noticed hearing on the Interim Order of Suspension was conducted, and  
3 the Interim Order of Suspension was affirmed. As a result, respondent remains suspended from  
4 the practice of medicine as of the date of the filing of this Accusation.

### 5 JURISDICTION

6 4. This Accusation is brought before the Medical Board of California (Board),  
7 Department of Consumer Affairs, under the authority of the following laws. All section  
8 references are to the Business and Professions Code (Code) unless otherwise indicated.

9 5. Section 2227 of the Code provides that a licensee who is found guilty under the  
10 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed  
11 one year, placed on probation and required to pay the costs of probation monitoring, be publicly  
12 reprimanded, or have such other action taken in relation to discipline as the Division deems  
13 proper.

14 6. Section 2234 of the Code states:

15 "The Division of Medical Quality<sup>1</sup> shall take action against any licensee who  
16 is charged with unprofessional conduct.<sup>2</sup> In addition to other provisions of this  
17 article, unprofessional conduct includes, but is not limited to, the following:

18 "(a) Violating or attempting to violate, directly or indirectly, assisting in or  
19 abetting the violation of, or conspiring to violate any provision of this chapter  
20 [Chapter 5, the Medical Practice Act].

21 "(b) Gross negligence.

22  
23 <sup>1</sup> California Business and Professions Code section 2002, as amended and effective  
24 January 1, 2008, provides that, unless otherwise expressly provided, the term "board" as used in  
25 the State Medical Practice Act (Cal. Bus. & Prof. Code, §§2000, et. seq.) means the "Medical  
Board of California," and references to the "Division of Medical Quality" and "Division of  
Licensing" in the Act or any other provision of law shall be deemed to refer to the Board.

26 <sup>2</sup> Unprofessional conduct under California Business and Professions Code section 2234 is  
27 conduct which breaches the rules of ethical code of the medical profession, or conduct which is  
28 unbecoming to a member in good standing of the medical profession, and which demonstrates an  
unfitness to practice medicine. (*Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564,  
575.)

1           “(c) Repeated negligent acts. To be repeated, there must be two or more  
2 negligent acts or omissions. An initial negligent act or omission followed by a  
3 separate and distinct departure from the applicable standard of care shall constitute  
4 repeated negligent acts.

5           “(1) An initial negligent diagnosis followed by an act or omission medically  
6 appropriate for that negligent diagnosis of the patient shall constitute a single  
7 negligent act.

8           “(2) When the standard of care requires a change in the diagnosis, act, or  
9 omission that constitutes the negligent act described in paragraph (1), including,  
10 but not limited to, a reevaluation of the diagnosis or a change in treatment, and the  
11 licensee's conduct departs from the applicable standard of care, each departure  
12 constitutes a separate and distinct breach of the standard of care.

13           “(d) Incompetence.

14           “(e) The commission of any act involving dishonesty or corruption which is  
15 substantially related to the qualifications, functions, or duties of a physician and  
16 surgeon.

17           “(f) Any action or conduct which would have warranted the denial of a  
18 certificate.”

19           “....”

20           7. Section 2238 of the Code states:

21           “A violation of any federal statute or federal regulation or any of the statutes  
22 or regulations of this state regulating dangerous drugs or controlled substances  
23 constitutes unprofessional conduct.”

24           8. Section 2239 of the Code states:

25           “(a) The use or prescribing for or administering to himself or herself, of any  
26 controlled substance; or the use of any of the dangerous drugs specified in Section  
27 4022, or of alcoholic beverages, to the extent, or in such a manner as to be  
28 dangerous or injurious to the licensee, or to any other person or to the public, or to

1 the extent that such use impairs the ability of the licensee to practice medicine  
2 safely or more than one misdemeanor or any felony involving the use,  
3 consumption, or self-administration of any of the substances referred to in this  
4 section, or any combination thereof, constitutes unprofessional conduct. The  
5 record of the conviction is conclusive evidence of such unprofessional conduct. .”<sup>3</sup>

6 “....”

7 9. Section 2242 of the Code states:

8 “(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in  
9 Section 4022 without an appropriate prior examination and a medical indication,  
10 constitutes unprofessional conduct.

11 “(b) No licensee shall be found to have committed unprofessional conduct  
12 within the meaning of this section if, at the time the drugs were prescribed,  
13 dispensed, or furnished, any of the following applies:

14 “(1) The licensee was a designated physician and surgeon or podiatrist serving  
15 in the absence of the patient's physician and surgeon or podiatrist, as the case may  
16 be, and if the drugs were prescribed, dispensed, or furnished only as necessary to  
17 maintain the patient until the return of his or her practitioner, but in any case no  
18 longer than 72 hours.

19 “(2) The licensee transmitted the order for the drugs to a registered nurse or to  
20 a licensed vocational nurse in an inpatient facility, and if both of the following  
21 conditions exist:

22 “(A) The practitioner had consulted with the registered nurse or licensed  
23 vocational nurse who had reviewed the patient's records.

24  
25  
26 <sup>3</sup> There is a nexus between a physician's use of alcoholic beverages and his or her fitness  
27 to practice medicine, established by the Legislature in section 2239, “in all cases where a licensed  
28 physician used alcoholic beverages to the extent or in such a manner as to pose a danger to  
himself or others.” (*Watson v. Superior Court (Medical Board)* (2009) 176 Cal.App.4th 1407,  
1411.)

1           “(B) The practitioner was designated as the practitioner to serve in the absence  
2 of the patient's physician and surgeon or podiatrist, as the case may be.

3           “(3) The licensee was a designated practitioner serving in the absence of the  
4 patient's physician and surgeon or podiatrist, as the case may be, and was in  
5 possession of or had utilized the patient's records and ordered the renewal of a  
6 medically indicated prescription for an amount not exceeding the original  
7 prescription in strength or amount or for more than one refill.

8           “(4) The licensee was acting in accordance with Section 120582 of the Health  
9 and Safety Code.”

10           10.       Section 2266 of the Code states:

11           “The failure of a physician and surgeon to maintain adequate and accurate  
12 records relating to the provision of services to their patients constitutes  
13 unprofessional conduct.”

14           11.       Section 822 of the Code states:

15           “If a licensing agency determines that its licentiate's ability to practice his or her  
16 profession safely is impaired because the licentiate is mentally ill, or physically ill  
17 affecting competency, the licensing agency may take action by any one of the following  
18 methods:

19           “(a) Revoking the licentiate's certificate or license.

20           “(b) Suspending the licentiate's right to practice.

21           “(c) Placing the licentiate on probation.

22           “(d) Taking such other action in relation to the licentiate as the licensing agency in  
23 its discretion deems proper.

24           “The licensing agency shall not reinstate a revoked or suspended certificate or  
25 license until it has received competent evidence of the absence or control of the condition  
26 which caused its action and until it is satisfied that with due regard for the public health  
27 and safety the person's right to practice his or her profession may be safely reinstated.”

28       ///



1                   12.     Section 11170 of the Health and Safety Code states:  
2                    “No person shall prescribe, administer, or furnish a controlled substance for  
3                   himself.”

4                                   **FIRST CAUSE FOR DISCIPLINE**

5                                   **(Self Administration of Controlled Substances)**

6                   13.     Respondent has subjected his Physician's and Surgeon's Certificate No.  
7     A 76782 to disciplinary action under sections 2227 and 2234, as defined by section 2239,  
8     subdivision (a), of the Code, in that he has administered controlled substances to himself, as more  
9     particularly alleged hereinafter:

10                   **October 21, 2011 Arrest**

11                   A.     On or about October 21, 2011, San Diego Police Department (SDPD)  
12                   officers responded to a report by A.R., respondent's estranged wife, that  
13                   respondent had threatened to kill himself with a handgun. According to the police  
14                   report, respondent and A.R. were having marital problems because of respondent's  
15                   substance abuse problems. The police report states that A.R. received text  
16                   message pictures from respondent in the early morning, including a picture of a  
17                   gun on a table and a picture of a gun in his mouth. Along with the pictures,  
18                   respondent texted A.R. that "I will either be in the morgue this afternoon or an  
19                   institution...My life is over...Nothing matters anymore." Respondent also left  
20                   A.R. specific instructions regarding his life insurance policy payouts. Respondent  
21                   sent A.R. another text stating, "By the way, if you call the police, that will  
22                   immediately make my decision, I'm not going to jail on top of everything else."  
23                   During the SDPD investigation, A.R. told officers that respondent was an  
24                   alcoholic and narcotics addict and had recently attained 30 days sobriety. SDPD  
25                   located respondent's vehicle in a parking lot and after brief negotiations  
26                   respondent surrendered to police. A search of respondent's vehicle was conducted  
27                   and it revealed a loaded gun in an unlocked closed case on the passenger seat of

28                   ///

1 the car and next to the gun in the case were two (2) magazines containing eight (8)  
2 bullets each. The search of respondent's trunk revealed a blue backpack  
3 containing \$25,004.00, four (4) Hydrocodone<sup>4</sup> pills in an unidentified orange pill  
4 bottle, four (4) unused hypodermic needles, and six (6) unused tubes and plungers.

5 B. During the SDPD investigation, C.D., MFT, of the Psychiatric  
6 Emergency Response Team (PERT) evaluated respondent and stated he "presented  
7 as very agitated and was sweating profusely" and admitted he had consumed two  
8 bottles of wine the night prior and about a "quarter of an eight ball of cocaine  
9 around 6 this morning."<sup>5</sup> According to the report, respondent told C.D. that he had  
10 been suicidal for four days since his wife asked for a divorce and had not slept for  
11 about two days. Respondent told C.D. that he was a medical doctor and operated  
12 his private practice, but took three months off for drug rehab and relapsed on  
13 alcohol and cocaine. Respondent admitted to taking the gram of cocaine and  
14 consuming two bottles of wine by 1500 hours that afternoon. He reported to C.D.  
15 his history of depression and use of Prozac for the management of his symptoms.  
16 C.D. placed respondent on a Welfare and Institutions Code section 5150 hold  
17 based on his mental health and medical issues related to his drug and alcohol  
18 condition and he was transported to S.M. Hospital for further evaluation.

19 C. Based on the incident, a warrant was issued for respondent for  
20 violations Business and Professions Code section 4140 [Possession of a  
21 Hypodermic Needle], Health and Safety Code sections 11364 [Possession of  
22 Controlled Substance Paraphernalia] and 11350, subdivision (a), [Possession of a

23 ///

24 \_\_\_\_\_  
25 <sup>4</sup> Hydrocodone is a Schedule II controlled substance pursuant to Health and Safety Code  
26 section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code  
section 4022.

27 <sup>5</sup> Cocaine is a Schedule II controlled substance pursuant to Health and Safety Code  
28 section 11056, subdivision (b), and a dangerous drug pursuant to Business and Professions Code  
section 4022.

1 Controlled Substance without a Prescription], and Penal Code section 12031,  
2 subdivision (a), [Possession of a Loaded Firearm].

3 D. On or about January 31, 2012, a criminal complaint was filed against  
4 respondent in the case entitled *The People of the State of California v. Brandon*  
5 *Michael Ross*, Superior Court Case No. M143593, charging him with violating  
6 Penal Code section 12031(a)(1) [Carrying a Loaded Firearm on One's Person],  
7 Business and Professions Code section 4060 [Possession of a Controlled  
8 Substance without a Prescription], and Business and Professions Code section  
9 4140 [Unauthorized Possession of Hypodermic Needle or Syringe]. The criminal  
10 case is still pending.

11 **October 21 - 26, 2011 Hospitalizations**

12 E. On or about October 21, 2011, at approximately 5:10 p.m., respondent  
13 was admitted to S.M. Hospital for evaluation of his 5150 Welfare and Institutions  
14 Code hold. Dr. M.D. saw respondent in the emergency department and continued  
15 the 5150 hold recommended by PERT. Although respondent stated he was just  
16 messing around in order to scare A.R., he admitted to cocaine and alcohol use  
17 earlier that morning and reported thoughts of suicide. Respondent had told PERT  
18 that he had been feeling suicidal for several days due to his wife asking for a  
19 divorce and had relapsed on wine and cocaine. A diagnostic laboratory drug test  
20 was conducted which resulted in positive findings for the presence for cocaine,  
21 opiates and Tylenol in respondent's system. Dr. M.D. cleared respondent to be  
22 transferred to A.P. Institute, a psychiatric facility with a bed available.

23 F. On or about October 22, 2011, respondent was transferred to A.P.  
24 Institute. Respondent was attended by psychiatrist Dr. J.B. who diagnosed him  
25 with major depressive disorder, recurrent; alcohol dependency and opioid  
26 dependency. He was held on the 5150 until October 24, 2011, and then placed on  
27 an involuntary 14 day hold on October 25, 2011. After being treated and  
28 evaluated by Dr. J.B., respondent was discharged on October 26, 2011. He was

1 given prescriptions for Wellbutrin XL<sup>6</sup> 150 mg daily, Fluoxetine<sup>7</sup> 60 mg daily, and  
2 Propecia 1 mg daily.

3 **Medical Board Investigation**

4 G. On or about March 5, 2012, Medical Board Investigator Tristina Craft  
5 (SI Craft) received a Controlled Substance Utilization Review & Evaluation  
6 System (CURES) report of the prescribing history of respondent March 5, 2009,  
7 through March 5, 2012. The CURES report revealed 804 prescriptions of which  
8 16 of them were issued to nine patients. All of the remaining prescriptions were  
9 prescribed as "Dr. Ross office."

10 H. On or about April 19, 2012, SI Craft received an Automated Reports &  
11 Consolidated Orders System (ARCOS) report from Lucia Bartolomeo, Drug  
12 Enforcement Agency Diversion Investigator. The ARCOS report shows multiple  
13 purchases of controlled narcotics beginning in January 16, 2006, and consistently  
14 through February 28, 2012. Respondent's wholesale order purchases included, but  
15 were not limited to, the following: Hydrocodone, Demerol,<sup>8</sup> Meperidine HCl  
16 injection, and Methadone.<sup>9</sup> Since October 7, 2009, through February 28, 2012,  
17 each month respondent ordered 500 plus Hydrocodone Bitrurate/Hydrocodone  
18 Acetaminophen at 10 mg, 325 mg and 500 mg tablets.

19 ///

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21 <sup>6</sup> Wellbutrin XL (Bupropion) is an antidepressant medication. Bupropion is used to treat  
22 major depressive disorder and seasonal affective disorder.

23 <sup>7</sup> Prozac (fluoxetine) is a selective serotonin reuptake inhibitors antidepressant. It is used  
24 to treat major depressive disorder, bulimia nervosa (an eating disorder) obsessive-compulsive  
disorder, panic disorder, and premenstrual dysphoric disorder.

25 <sup>8</sup> Demerol (meperidine) is a opioid pain reliever. Meperidine is a Schedule II controlled  
26 substance pursuant to Health and Safety Code section 11055, subdivision (c), and a dangerous  
drug pursuant to Business and Professions Code section 4022.

27 <sup>9</sup> Methadone is a Schedule II controlled substance pursuant to Health and Safety Code  
28 section 11055, subdivision (c), and a dangerous drug pursuant to Business and Professions Code  
section 4022.

1 **Subject Interview of Dr. Brandon Ross**

2 I. On or about May 9, 2012, respondent was interviewed by SI Craft, Dr.  
3 B.M., and Deputy Attorney General Alexandra M. Alvarez. During the interview,  
4 respondent was asked whether he was under the care of a psychiatrist. Respondent  
5 indicated that he had seen a psychiatrist for an intake appointment approximately  
6 three weeks prior to the interview, but did not want to see him again because he  
7 did not like him. He reported that he was currently taking Prozac 60 mg daily,  
8 Wellbutrin 100 mg daily and Propecia 1 mg daily. Respondent indicated that he  
9 had gotten Prozac from his office before. In 2006 or 2007, respondent saw a  
10 psychiatrist for his addiction problems on the request of his wife.

11 J. Respondent reported that he enrolled in Pacific Assistance Group  
12 (PAG), a diversion program, in which he agreed to random drug testing once a  
13 week, to attend therapy sessions with other professionals twice a week, and to  
14 attend a minimum of three AA meetings per week. As part of the program, his car  
15 has an Interlock device that will not allow the car to start if it detects alcohol.  
16 Respondent reported that he entered into the program at the end of January 2012  
17 and the minimum amount of time in the program is three years. Respondent did a  
18 PAG intake on or about January 19, 2012. He has been in compliance with the  
19 terms of his contract agreement by participating in health support groups, 12 step  
20 meetings, and random weekly drug testing. PAG allowed respondent to pick his  
21 practice monitor, who is J.S. J.S. is respondent's medical assistant at his hair  
22 transplant office and not a licensed professional.

23 K. Respondent reported that he had been in a rehabilitation center named  
24 Capo by the Sea in July 2011, for approximately one month. Respondent reported  
25 that he went to Capo by the Sea because he had an addiction problem and had been  
26 using cocaine and alcohol. He had been using a gram of cocaine a day for months.  
27 Respondent attended Capo by the Sea for rehabilitation from July 20, 2011,  
28 through August 11, 2011. The Capo by the Sea records indicate that respondent

1 entered their program on July 20, 2011 for alcohol and cocaine dependency.  
2 Respondent left Capo by the Sea against their advice on July 26, 2011, and was  
3 readmitted on July 28, 2011. He reported that he sought treatment because his  
4 wife asked for a divorce. Respondent admitted he had been consuming 3 wine  
5 bottles daily and 1 to 2 eight balls daily of cocaine and that his longest period of  
6 sobriety had been 1 year approximately 10 years ago. According to the Capo by  
7 the Sea records, respondent was only there for three weeks from July 20, 2011,  
8 through August 11, 2011. Upon his discharge, respondent had failed to meet his  
9 treatment plan objectives.

10 L. Respondent relapsed and returned to Capo by the Sea in September  
11 2011, for a two week period. Respondent attended Capo by the Sea for inpatient  
12 rehabilitation for the time period September 14, 2011, through September 28,  
13 2011. The Capo by the Sea records indicate that respondent entered into the  
14 program on September 14, 2011, after relapsing on three (3) bottles of wine daily  
15 and 3 1/2 grams of cocaine daily. Respondent reported that he had shown up to his  
16 child's birthday party drunk. The records indicated that respondent only partially  
17 met his treatment plan objectives and refused to stay longer for inpatient treatment.

18 M. During the interview, respondent was asked whether he had an addiction  
19 problem with Hydrocodone. Respondent admitted that he used Hydrocodone off  
20 and on for years since approximately 2002. He also admitted that he took  
21 Hydrocodone from his office supply. Respondent dispensed Hydrocodone for his  
22 patients at his office, so he was able to take the Hydrocodone for his own personal  
23 use from his office. He would order the Hydrocodone and dispense it to his  
24 patients. Respondent admitted that he had been addicted to Hydrocodone off and  
25 on from 2002 and that it was really hard to kick the addiction. He reported that the  
26 last time he had Hydrocodone was probably in November 2011.

27 N. During the interview, respondent was asked about his alcohol  
28 dependency. Respondent admitted that his alcohol dependency started in 2003 or

1 2004 and was off and on for years. Respondent stated that the last time he had a  
2 drink of alcohol was on March 4, 2012, and prior to that January 5, 2012.

3 O. During the interview, respondent was asked about his cocaine use.  
4 Respondent admitted that he started using cocaine in approximately 2010 and that  
5 the last time he used cocaine was on January 5, 2012. Respondent admitted that he  
6 tried the cocaine once and then was hooked on it. Respondent reported that he  
7 first obtained cocaine from a patient. He went to coffee with his patient and was  
8 offered the cocaine. Respondent reported that he obtained the cocaine from his  
9 patient the first time and then subsequently obtained it from his brother.

10 P. During the interview, respondent was asked about medications  
11 dispensed through his office. Respondent reported that he had been dispensing  
12 medications to his patients from his practice since approximately 2004.  
13 Respondent stated that he has the medications in a locked box and does not have a  
14 key to the box. J.S., his unlicensed medical assistant, has the only key to the  
15 locked medication box. Respondent reported that he initiated the locked  
16 medication box in 2010 in an attempt to remain sober. J.S. is responsible for  
17 stocking the medication box and independently decides what medications are  
18 ordered.

19 Q. During the interview, respondent was asked about the CURES report  
20 and ARCOS report. From September 2009 through January 2010, respondent  
21 ordered for his office at total of 2600 tablets of Hydrocodone. During the same  
22 time period, respondent ordered an additional 4300 tablets of Hydrocodone for his  
23 office for a total of 7000 tablets of Hydrocodone in a six month time period.  
24 Respondent admitted that he was taking them for his personal use. He reported  
25 that he took approximately 20 to 30 tablets of Hydrocodone every evening. In  
26 2008, respondent ordered Methadone for his office. Respondent admitted that he  
27 used the Methadone in an attempt to wean himself off the Hydrocodone and that it  
28 did not work.

1 R. During the interview, respondent was asked about his Demerol use.  
2 Respondent reported that he had one patient who required Demerol injections.  
3 From November 14, 2007, through September 17, 2009, respondent ordered 26  
4 vials of Demerol injectable. Respondent reported he used it three times on his  
5 patient, but admitted the rest was used for his personal use. Respondent stated that  
6 he developed rhabdomyolysis from using Demerol. Respondent reported that he  
7 injected approximately 5 to 10 cc's of Demerol every evening and developed a real  
8 opiate tolerance.

9 S. Respondent reported that, in approximately 2008, he went to a detox  
10 center for a rapid detox from opiates. He reported that the detox helped with the  
11 withdrawal symptoms, but he was not mentally prepared to be sober at that time.  
12 He did not do any conjunctive counseling. Respondent has attempted to stop  
13 abusing drugs over and over again.

14 T. During the interview, respondent was asked about the October 21, 2011,  
15 incident. Respondent reported that he just wanted to make his wife feel bad and  
16 that he was not suicidal. He stated that he was not planning on taking his life.  
17 Respondent reported that he took the picture of the gun for effect and had made  
18 sure that there were no bullets in the gun. He admitted that he had been drinking  
19 and snorting cocaine and then sobered up and realized it was a stupid idea. He  
20 drank approximately two bottles of wine and used a gram of cocaine. The needles  
21 found in his trunk were for picking ingrown hair from his neck and the syringes  
22 were for giving medication to his children. He did not know that it was illegal to  
23 possess them. Respondent did not know where he got the 4 Hydrocodone pills  
24 that were found in his backpack, but it might have been from his office. He tested  
25 positive for Tylenol at S.M. Hospital. Respondent stated that if he tested positive  
26 Tylenol at S.M. Hospital, then he must have taken Hydrocodone that day also. He  
27 stated that he probably got them from his office.

28 ///



1 U. Respondent admitted to smuggling a small amount of cocaine in a nasal  
2 spray container on a trip to Hawaii in April 2011.

3 V. During the interview, respondent was asked how he obtained  
4 Hydrocodone during 2011. Respondent stated that he must have gotten it from his  
5 office. He stated that he probably "did some weasely thing like you know, like  
6 wait until the lockbox was open, and then then take a bottle or something...but I I  
7 don't recall how I did it."

## 8 SECOND CAUSE FOR DISCIPLINE

### 9 (Use of Dangerous Drugs and Alcohol to an Extent or 10 in a Manner Dangerous to the Licensee, Others, or the Public)

11 14. Respondent has further subjected his Physician's and Surgeon's Certificate No.  
12 A 76782 to disciplinary action under sections 2227 and 2234, as defined by section 2239,  
13 subdivision (a), of the Code, in that he has used a dangerous drugs, and has consumed alcohol, to  
14 an extent or in a manner, dangerous to himself or another person, or to the public, or to an extent  
15 that such use impaired his ability to practice medicine safely, as more particularly described in  
16 paragraph 13, above, which is hereby incorporated by reference as if fully set forth herein.

## 17 THIRD CAUSE FOR DISCIPLINE

### 18 (Violation of State Statutes Regulating Controlled Substances and Drugs)

19 15. Respondent has further subjected his Physician's and Surgeon's Certificate No.  
20 A 76782 to disciplinary action under sections 2227 and 2234, as defined by section 2238, of the  
21 Code, in that he has violated state statutes regulating dangerous drugs or controlled substances, as  
22 more particularly alleged hereinafter:

23 A. Paragraphs 13 and 14, above, are hereby incorporated by reference as if  
24 fully set forth herein.

25 B. Respondent has repeatedly used dangerous drugs and controlled  
26 substances, to the extent, or in such a manner as to be dangerous to injurious to  
27 himself, or to any other person, or the public, in violation of section 2339,  
28 subdivision (a), of the Code; and

1 C Respondent repeatedly administered controlled substances to himself, in  
2 violation of Health and Safety Code section 11170, and section 2239, subdivision  
3 (a), of the Code.

#### 4 FOURTH CAUSE FOR DISCIPLINE

##### 5 (Gross Negligence)

6 16. Respondent has further subjected his Physician's and Surgeon's Certificate No.  
7 A 76782 to disciplinary action under sections 2227 and 2234, as defined by section 2234,  
8 subdivision (b), of the Code, in that he has committed gross negligence in his practice of  
9 medicine, as more particularly alleged hereinafter:

10 A. Paragraphs 13, 14, and 15, above, are hereby incorporated by reference  
11 as if fully set forth herein.

12 B. During the interview, respondent was asked about his current medical  
13 practice. Respondent reported that he has been in private solo practice since 2000  
14 as a hair transplant specialist and that his patients usually receive Versed 2 to 5 mg  
15 and Valium 10 mg for sedation prior to their transplant. The procedure is done  
16 with conscious sedation. Respondent has the capability to start an IV and has a  
17 crash cart; however, he does not know what is in the crash cart because it has been  
18 a long time since he has looked in the crash cart. Respondent admitted that he is  
19 not ACLS<sup>10</sup> certified for at least two years.

20 C. Respondent committed gross negligence which included, but was not  
21 limited to, the following:

22 (1) Respondent took controlled substances and dangerous drugs for his own  
23 use;

24 (2) Respondent allowed a controlled substance lock box to be under the  
25 supervision and control of an unlicensed employee;

26  
27 <sup>10</sup> Advanced cardiac life support (ACLS) refers to a set of clinical interventions for the  
28 urgent treatment of cardiac arrest, stroke, and other life threatening medical emergencies, as well  
as the knowledge and skills to deploy those interventions.

1 (3) Respondent failed to be prepared for emergencies by having an updated  
2 crash cart and being familiar with the crash cart; and

3 (4) Respondent failed to be ACLS certified while performing conscious  
4 sedation on his patients.

### 5 **FIFTH CAUSE FOR DISCIPLINE**

#### 6 **(Repeated Negligent Acts)**

7 17. Respondent has further subjected his Physician's and Surgeon's Certificate No.  
8 A 76782 to disciplinary action under sections 2227 and 2234, as defined by section 2234,  
9 subdivision (c), of the Code, in that he has committed repeated negligent acts in his practice of  
10 medicine and in his care and treatment of S.S., as more particularly alleged hereinafter:

11 A. Paragraphs 13, 14, 15, and 16, above, are hereby incorporated by  
12 reference as if fully set forth herein;

13 B. Respondent committed repeated negligent acts in his care and treatment  
14 of patient S.S. which included, but was not limited to, the following:

15 (1) Respondent admitted to giving S.S., a friend, a prescription for  
16 Hydrocodone on or about February 11, 2012, without an examination or  
17 documentation; and

18 (2) Respondent failed to perform an appropriate prior examination on S.S.  
19 and did not document his care and treatment of S.S.

### 20 **SIXTH CAUSE FOR DISCIPLINE**

#### 21 **(Prescribing Without a Good Faith Prior Examination)**

22 18. Respondent has further subjected his Physician's and Surgeon's Certificate No.  
23 A 76782 to disciplinary action under sections 2227 and 2234, as defined by section 2242, of the  
24 Code, in that he prescribed, dispensed, or furnished dangerous drugs as defined in section 4022  
25 without an appropriate prior examination and a medical indication, in his care and treatment of  
26 patients S.S., as more particularly alleged in paragraph 17, above, and which is hereby  
27 incorporated by reference as if fully set forth.

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1 **SEVENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Maintain Adequate and Accurate Records)**

3 19. Respondent has further subjected his Physician's and Surgeon's Certificate No.  
4 A 76782 to disciplinary action under sections 2227 and 2234, as defined by section 2266, of the  
5 Code, in that he has failed to maintain adequate and accurate records, as more particularly alleged  
6 in paragraph 17, above, which is incorporated by reference as if fully set forth herein.

7 **EIGHTH CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct)**

9 20. Respondent has further subjected his Physician's and Surgeon's Certificate No.  
10 A 76782 to disciplinary action under sections 2227 and 2234 of the Code, in that he has engaged  
11 in conduct which breaches the rules or ethical code of the medical profession, or conduct which is  
12 unbecoming to a member in good standing of the medical profession, and which demonstrates an  
13 unfitness to practice medicine, as more particularly alleged hereinafter:

14 A. Paragraphs 13, 14, 15, 16, 17, 18, and 19 above, are hereby incorporated by reference  
15 as if fully set forth herein.

16 **CAUSE FOR ACTION**

17 **(Mental Illness and/or Physical Illness Affecting Competency)**

18 21. Respondent is subject to action under section 822 of the Code in that his ability  
19 to practice medicine safely is impaired because he is mentally ill and/or physically ill affecting  
20 competency, as a result of his long standing addictions to controlled substances and alcohol, as  
21 more particularly alleged hereinafter:

22 A. Paragraphs 13, 14, and 15, above, are hereby incorporated by reference  
23 as if fully set forth herein.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate No. A 76782 issued to respondent Brandon Ross, M.D.;

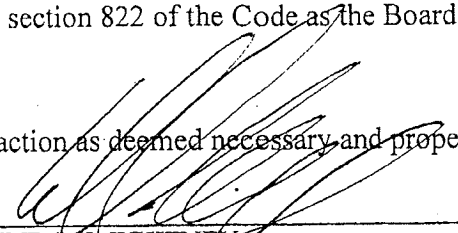
2. Revoking, suspending or denying approval of respondent Brandon Ross, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code;

3. Ordering respondent Brandon Ross, M.D. to pay the Board, if placed on probation, the costs of probation monitoring;

4. Taking action as authorized by section 822 of the Code as the Board, in its discretion, deems necessary and proper; and

5. Taking such other and further action as deemed necessary and proper.

DATED: July 3, 2012

  
LINDA K. WHITNEY  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
Complainant